



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 230316-0077]

RTID 0648-XD685

Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2024 River Herring and Shad Catch Cap Reached for Midwater Trawl Vessels in the Cape Cod Catch Cap Closure Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and
Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; possession limit adjustment.

SUMMARY: NMFS is reducing the Atlantic herring possession limit for herring vessels
fishing with midwater trawl in the River Herring and Shad Cape Cod Catch Cap Closure
Area. This is required because NMFS projects that catch of river herring and shad by
midwater trawl herring vessels will reach the Cape Cod Catch Cap threshold for river
herring and shad before the end of the fishing year. This action is intended to prevent
overharvest of river herring and shad.

DATES: Effective 00:01 hours local time, January 23, 2024, through December 31,
2024.

FOR FURTHER INFORMATION CONTACT: Louis Forristall, Fishery Management
Specialist, (978)-281-9321.

SUPPLEMENTARY INFORMATION: The Regional Administrator of the Greater
Atlantic Regional Fisheries Office monitors river herring and shad catch by Atlantic
herring vessels. River herring and shad catch caps are allocated to the herring fishery by
area and gear type.

The Cape Cod Catch Cap Area river herring and shad cap is allocated to Atlantic herring vessels using midwater trawl gear in the Cape Cod Catch Cap Area. Catch from all Atlantic herring trips using midwater trawl gear in that area that land more than 6,600 pounds (lb), equivalent to 2,994 kilograms (kg), of herring is counted towards the river herring and shad catch cap. Regulations at 50 CFR 648.201(a)(4)(ii) require NMFS to implement a 2,000-lb (907.2-kg) Atlantic herring possession limit for vessels fishing with the specified gear in a specified catch cap closure area beginning on the date that catch is projected to reach 95 percent of the river herring and shad catch cap for that area.

Based on vessel reports, dealer reports, and other available information, the Regional Administrator projects that midwater trawl herring vessels will have caught 95 percent of the river herring and shad 2024 Cape Cod Catch Cap by January 23, 2024. Therefore, effective 00:01 hours local time January 23, 2024, through 24:00 hours local time on December 31, 2024, Atlantic herring vessels using midwater trawl gear may not attempt or do any of the following: Fish for, possess, transfer, receive, land, or sell more than 2,000 lb (907.2 kg) of Atlantic herring from the Cape Cod Catch Cap Closure Area per trip; or land Atlantic herring from the Cape Cod Catch Cap Closure Area more than once per calendar day. Also effective 00:01 hours local time, January 23, 2024, through 24:00 hours local time, December 31, 2024, unless it is from a vessel that enters port before 00:01 hours local time on January 23, 2024, and catch is landed in accordance with state management measures, federally permitted dealers may not attempt or do any of the following: purchase; receive; possess; have custody or control of; sell; barter; trade; or transfer more than 2,000 lb (907.2 kg) of Atlantic herring per trip or calendar day from an Atlantic herring midwater trawl vessel fishing in the Cape Cod Catch Cap Closure Area.

Midwater trawl vessels may transit through or land in the Cape Cod Catch Cap Closure Area with more than 2,000 lb (907.2 kg) of Atlantic herring on board, provided

that: The herring were caught in an area not subject to a 2,000-lb (907.2-kg) limit; all fishing gear is stowed and not available for immediate use as defined at § 648.2 while the vessel is in the Closure Area; and the vessel is issued a permit appropriate to the amount of herring on board and the area where the herring was harvested.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to waive prior notice and the opportunity for public comment because it would be impracticable, unnecessary, and contrary to the public interest. Data only recently became available indicating that midwater trawl herring vessels will catch 95 percent of the river herring and shad Cape Cod Catch Cap before the end of the fishing year. High-volume catch and landings in the herring fishery can increase river herring and shad catch relative to catch caps quickly. If implementation of this action is delayed to solicit prior public comment, the 2024 Cape Cod Catch Cap will likely be exceeded; thereby undermining the conservation objectives of the Atlantic Herring Fishery Management Plan (FMP). Additionally, the regulations at § 648.201(a)(4)(ii) are designed to be implemented as quickly as possible to prevent catch from exceeding river herring and shad catch caps. NMFS is acting in accordance with those regulations to carry out the fishery management plan under the authority provided in section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act. These regulations were subject to public notice and opportunity to comment when they were first adopted in 2014. Further, Atlantic herring fishing industry participants monitor catch closely and anticipate potential possession limit adjustments as catch totals approach river herring and shad catch caps, and they expect these actions to occur in a timely way consistent with the FMP's objectives. For the reasons stated above, NMFS also finds good cause to waive the 30-day delayed effectiveness in accordance

with 5 U.S.C 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 22, 2024.

Everett Wayne Baxter,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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